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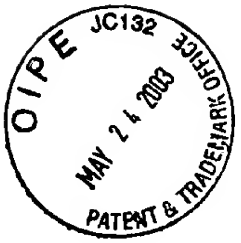

Attorney Docket No. 2125/4/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Inventor(s): Thomas Mason; Rosetta Mason

Title: Improved Bleacher Chair and Method for Vending Same

Group Art Unit: 2771

Examiner: S. D'Adamo

(703) 308-0827

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Arlington, VA 22313-

Inga Christou
name

signature

Date

Serial No. 09/716,156
Filed: Nov. 20, 2000

Honorable Assistant Commissioner for Patents
Arlington, VA 22313

DECLARATION UNDER 37 CFR 1.132

Sir:

Thomas Mason is a co-applicant and co-inventor in the above-identified patent application, and does hereby declare and say:

1. My home address is 1616 West Walnut Road, Vineland, New Jersey.

2. From about 1958 to 1962 I served as a member of the United States Marine Corps. Subsequently, as a result of my experience in the Marines and my frequent attendance at bleacher seating events, I began contemplating how to solve a problem presented by uncomfortable seating at outdoor bleacher seated events and how to combine a better seat with a viable business model for supplying the perceived demand for such a chair in a secured setting without the inconvenience of carrying improved seating to each event as viewed from the user side of the equation for the problem. From the supplier side of the problem I rejected the idea of just manufacturing a back supporting bleacher chair add-on and renting or selling such a chair as impractical for a number of reasons.

3. My study of the problem ruled out the likelihood that actual users would buy the improved chair to take to a game or event, store them in an automobile trunk, and actually transport them from a distant parking lot through a stadium gate, ticket gate, and up a ramp to an actual bleacher aisle.

4. My further study of the problem up to development of a final business model and this patent application yielded the conclusion that sponsors of bleacher events were unlikely to allow ticket holders to enter an event with a bleacher chair accessory for two main reasons: (a) liability for injury to another guest from a bleacher chair being used as a projectile; and, (b) security concerns related to the necessity of having to x-ray each bleacher chair brought in from outside to insure that contraband weapons or explosives were not concealed therein.

5. Additional study of the developing business model determined that for the vending of the improved bleacher chair to be successful, some means was needed to persuade event sponsors that liability for a chair being used to commit a tort could with reasonable legal certainty be attributed to the person who actually rented the bleacher chair and who actually had control over the improved bleacher chair rented during the event.

6. I discovered with my co-inventor that a novel way to solve the above problems with the business model of vending bleacher chairs was to use a unique digital identification for each rented chair and link this to a unique identifier of the guest renting the chair, e.g. a renter's photo driver's license or the like.

7. Our rental business model is as recited in claims 13 – 15, which are as follows:

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Claim 13 (amended). A method for the rental of a portable bleacher chair as specified in claim 1, the method being used for an event having bleacher seating , the method being for rental *inside said event* to a customer attending said event, which method comprises:

(a) providing an inventory of bleacher chairs at a location proximate to said event, each said bleacher chair comprising a *unique identification means* for uniquely identifying each said bleacher chair, said identification means being |laser| scan able into a computer;

(b) providing a computer means for digitally storing the unique identification means for each bleacher chair;

(c) providing a credit card scanning means for scanning the renter's credit card and obtaining a set of data there from when the renter checks out a bleacher chair, the computer means matching the data to the unique identification means for the bleacher chair rented;

(d) the computer means further having a signature capture means for electronically capturing said renter's signature authorizing a transaction, the computer means further having a wireless digital phone connection means for sending and receiving credit card data and a printing means for printing a receipt of said transaction;

(e) providing a means for electronically charging and releasing a monetary deposit for said bleacher chair rental; and,

(f) releasing the deposit by scanning the unique identification means associated with said bleacher chair upon its return to inventory.

Claim 14 (amended). The method of claim 13 wherein the unique identification means is attached to the bleacher chair, the bar code being a unique digital number.

Claim 15 (amended). The method of claim 13 wherein the unique identification means is a bar code and the scanning means is a means for detecting and reading the unique digital number.

8. Our foot rest structural improvement is distinguishable from the chair of Glecker et al. and the chair suggested by its combination with Lippert. It is as recited in new claim 16, to wit:

Claim 16 (new-replaces claim 2). In a combination of a bleacher structure having tiers of bleacher seating planks of a width W, a collapsible portable disengageable bleacher chair with a plurality of portions including a seat portion having a top and a bottom, said bottom of said seat portion being the only portion of said chair in contact with said bleacher structure, said bottom being juxtaposed on top of one of said seating planks of the bleacher structure, said bleacher chair comprising:

a chair portion comprising:

an elongated rod;

a seat portion comprising a seat portion frame further comprising a first peripheral frame forming two opposed sides and one unopposed side of a rectangle, and flexibly joined with said elongated rod to form the fourth side thereof;

a back portion comprising a back portion frame further comprising a second peripheral frame forming two opposed sides and one unopposed side of a rectangle, and flexibly joined with said elongated rod to form the fourth side thereof; and,

a seating surface;

two lateral arm members ,each lateral arm member having a midpoint, the two lateral arm members being positioned outward of said chair portion, one on each side, with each

rearward end of each arm member joined to the opposing sides of said back portion frame of said chair portion approximately at their midpoint;
a forward member comprising a frame forming two opposed forward vertically oriented and forward slanted sides each having a proximal end and a distal end, each having a length F and one unopposed side of a rectangle, with each proximal end of said opposed sides closest to said unopposed side joined to one of the lateral arm members in the proximity of the forward end thereof, with each distal end of said opposed sides farthest from said unopposed side joined by a horizontal bar, and the opposed sides of said forward member joined approximately at their midpoint to the opposing sides of said seat portion frame in the proximity of the unopposed side of said seat portion frame; and,
a rearward member comprising a frame forming two opposed rearward vertically oriented and rearward slanted sides each having a length R
and one unopposed side of a rectangle, with each distal end of said opposed sides farthest from said unopposed side joined to one of the lateral arm members in the proximity of midpoint of said lateral arm members, and the opposite sides of said rearward member joined at a point proximate to the unopposed side of said rearward member to the opposing sides of said seat portion frame in the proximity of the distal ends of said opposed sides of said seat portion frame farthest from the unopposed side of said seat portion frame.
and wherein, a distance D between the juncture of said forward member with said seat portion frame and the juncture of said rearward member with said seat portion frame is greater than the width W of a bleacher seat plank, said seat portion frame resting upon the bleacher seat plank and said bleacher chair supported solely by said bleacher seat plank,
and wherein R is less than F, said forward member comprising the frame forming two opposed forward vertically oriented and forward slanted sides each having the length F, the length F representing the length of said forward member, said rearward member comprising the frame forming two opposed rearward vertically oriented and rearward slanted sides each having a length R, the length R representing the length of each said rearward member wherein R and F bear a certain ratio relationship to each other, the ratio of R to F being approximately 0.667, *the improvement comprising an elevated horizontal bar extending between each of said rearward members that provides a suspended foot rest behind a bleacher seating plank and in front of another bleacher seating plank on which the bleacher chair rests*

9. The Patent Office concluded that inventions recited in claims 13-15 are old without taking into account the fact that the references do not suggest an "elevated footrest". The absence of an elevated footrest in a bleacher setting in the prior art and the security aspect of my invention in view of the above background facts concerning the development of my rental method invention have not been accounted for by or in the following statement used to support the finding of fact:

> Gleckler does not teach of a method for renting the chairs. Sudbury Taylor Rental teaches of renting chairs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to rent the chairs of Gleckler, as taught by Sudbury Taylor Rental.

In regards to claims 13-15, the method disclosed for renting is old and well known. The office takes official notice that the method of using a computer for storing data, a scannable bar code, a bar code reader, a credit card transaction, and an electronic signature are old and well known in the art and would have been obvious to use with the method of renting Gleckler's adjustable chairs.

[There is no mention or support hereby the Office for the implied finding that a unique idenfier for the renter is actually linked to the chair rented and that the chair rented offers an elevated foot rest in a bleacher setting.]

10. There is shown by **EXHIBIT A** attached hereto and incorporated herein that the verification of location and tracking of merchandise using wireless transmission of bar codes is novel as a technology and as an industry. This wireless transmission and the weapons hiding deterrent or security aspect of applicants' invention inherent in the inventions of claims 13-15 were not known to Gleckler et al (4,772,068) which issued in 1988 or obvious at the time of publication of the reference the Sudbury Taylor Rental Website which apparently was first published in the fall of 1999. EXHIBIT A is a non-prior art article appearing on March 1, 2003 in the Financial Times newspaper entitled, "Radio ID tags spread waves of anger among privacy activists". It declares.

> Planned successor to barcodes is already provoking suspicions, says Simon London. Ultimately this technology will enslave humanity, " says Katherine Albrecht, a privacy campaigner and Harvard University doctoral student. The objects of her ire are radio-frequency identification (RFID) tags, silvers of silicon coming soon to supermarket shelves.
>
> Gillette, the US consumer products group, last month ordered 500m RFID tags for tracking packets of razors through its supply chain. Muchelin has developed a manufacturing process to vulcanise a tag into every tyre.
>
> Sanjay Sarma, head of research at the Auto-ID center at the Massachusetts Institute of Technology, says: "This is technology that solves a number of business problems-theft, counterfeiting, supply chain management."
>
> But where companies see RFID tags as the 21st century successors to barcodes, activists imagine a world where the movement of every object-and by implication every person-can be monitored.
>
> Ms Albrecht, who runs Consumers Against Supermarket Privacy Invasion and Numbering, a group that opposes date collection by retailers, says many members "would rather walk naked than wear clothes that have been tagged."
>
> Chris Hoofnagle, of the Electronic Privacy Information Center, a Washington-based watchdog says: "There are going to be any number of entities who will want to use the information collected from RFID tags to track individuals or groups. The issue is control. Can you determine when the tag is active and who is using the information collected?"

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According to Caspian, proponents of the RFID tag envisage a pervasive global network of millions of receivers along the entire supply chain-in airports, seaports, along roads, in distribution centers, warehouses, retail stores, and homes.

This, Caspian says, would allow for continuous identification and tracking of physical items, enabling companies to determine the whereabouts of their products at all times.

An RFID tag consists of a silicon chip with a unique serial number. Pass the chip through a radio frequency field and it can broadcast its identity for a few feet.

One of its big advantages over barcodes is that information can be collected without a line of sight to the tag. This makes it possible to scan a pallet of goods simply by passing it through a radio field.

Moreover, RFID chips can store enough information to give each item; not merely each product line, a unique identity.

While the idea has been around for 30 years, the chips are only now becoming cheap enough for companies to consider widespread deployment.

Gillette is believed to be paying between 15 cents and 25 cents for each tag. Alien Technology, its California-based supplier, says the cost could fall to 5 cents or below if tags are made in high volume.

Procter & Gamble, the household goods group, is also running a pilot project. Retailers such as Wal-Mart, are also testing the technology, attracted by potential applications including "smart shelves" that sense when items are removed and re-order automatically, and checkouts that calculate totals when a shopping cart is wheeled through a radio field.

But it is possible to see how RFID technology could be misused and some consumers are taking steps to protect themselves against being tracked. From a small office in Brooklyn, Stephen Galluccio sells bags lined with radio frequency-blocking material. "They are selling technology that does not turn off. You just don't have control any more." Suggestions for an industry wide solution range from Ms Albrecht's call for a total ban to self-regulation and restraint by companies.

Mark Roberti, editor of the RFID Journal, an online newsletter, argues for a code of practice that would switch off tags once they have been scanned at the point of sale, unless consumers agree for their purchases to be tracked.

The tag specification drawn up by the Auto ID center at the Massachusetts Institute of Technology includes a "self-destruct" command that would allow the owner to deactivate the tag

Mr. Hoofnagle goes further. He calls on the government to set up a data protection commission to look at the privacy implications of RFID and other emerging technologies.

Epic has also called for the introduction of European-style date protection laws that control who can collect data and how it can be used.

On one thing however, almost everyone agrees: without a concerned effort to address public concerns about privacy, RFID technology could face a backlash.

"Privacy will become a huge issue for the RFID community as this technology rolls out," says Joe Tobolski at Accenture, the consulting firm.

11. Moreover, another fact recited in our specification and one of the keys to our business plan, which was not known in the rental industry at the time of our invention is the reading of the bar code of a driver's license.

12. Upon information and belief, our method invention is the first time a company has sought to establish a digital link between a renter and an *object*

inside a secure area used for entertainment, sports, speeches, and the like with an additional utility of thwarting the use of stadium chairs to import contraband into an arena.

13. Lastly, a careful examination of the cited references, especially the Glecker et al. and the Lippert patents taught me that none of these references provide, suggest, or intimate an elevated foot rest structural element as recited in each of my claims. The elevated foot rest is an important element of my invention. The Glecker et al. structure has a forward U-shaped member 48 similar to that in my invention but it is specified to be for resting on an inclined surface 29 as a structural as shown in Fig. 1. The Lippert patent does not show a forward horizontal bar below the seat nor suggest a footrest of any kind.

14. In regard to my rental method, there is no suggestion in the Taylor Sudbury reference to modify the Glecker et al. chairs to add footrests nor is there a suggestion in this reference to elevate the footrests and rent each chair to a person with a unique identifier for both the person and the chair linked together as recited in the claims for my method invention.

The declarant Thomas Mason further states that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this applicant or any patent resulting therefrom.

Thomas Mason

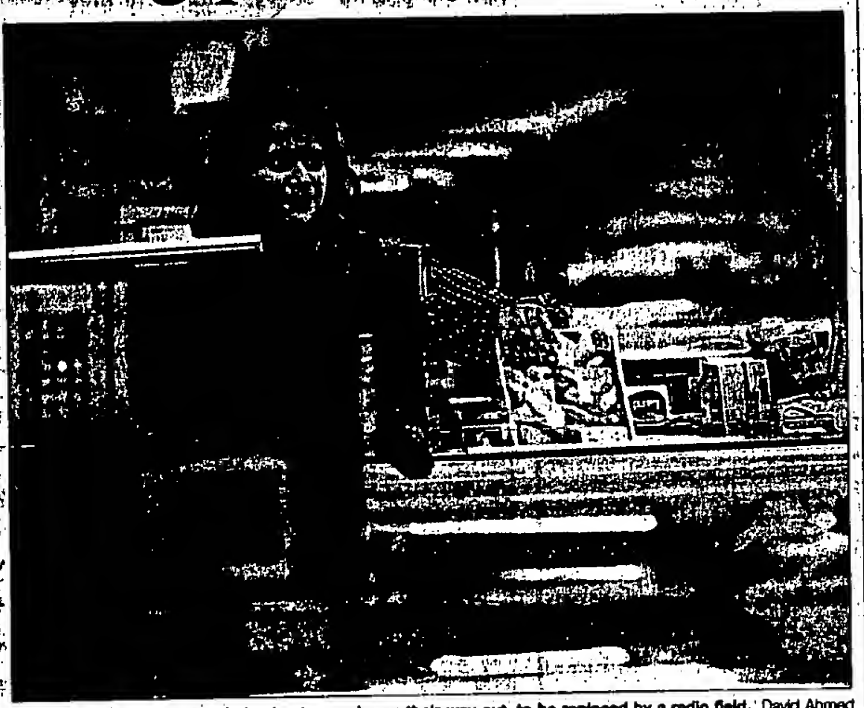
Dated: May 12, 2003

Attachment: Exhibit A

FINANCIAL T
Weekend March 1/March 2 2003

Radio ID tags spread waves of anger among privacy activists

Planned successor to barcodes is already provoking suspicions, says Simon London



Passing phase: conventional checkouts may be on their way out, to be replaced by a radio field · David Ahmed

"Ultimately this technology will enslave humanity," says Katherine Albrecht, a privacy campaigner and Harvard University doctoral student. The objects of her ire are radio-frequency identification (RFID) tags, slivers of silicon coming soon to supermarket shelves.

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The tag specification drawn up by the Auto-ID Center at the Massachusetts Institute of Technology includes a "self-destruct" command that would allow the owner to deactivate the tag [illegible].

Mr [illegible] goes further. He calls on the government to set up a data protection commission to look at the privacy implications of RFID and other emerging technologies.

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"Privacy will become a huge issue for the RFID community as this technology rolls out," says Joe Tobolski at Accenture, the consulting firm.

When announcing companies tend to foc ference between the price and the target's p target companies' sha to rise just befor announced, not only in cated European capital is well documented One thing JP Morga 2002 global M&A revie is the wide gap betwee month and one-day pr Between 1998 and 20 ence was in a surpr 10-15 percentage poin year, in more sober t ume of announced U down by 74 per cent peak – the gap shrank Interestingly, while o miums have dropped of 46 per cent in 2000 t cent last year, the one has remained in a na cent range throughout This partly reflect environment, with the sharply during the b ing since. It also re pending bids leaking market. Given everyth plate, this is unlikely t for William Donaldso man of the Securities Commission. The i investors, however, is on the announced pr misleading if it un true" premium paid. whether a transaction for all shareholders, r traders, the share pri ago may be a better

Cap Gemini

Cap Gemini shareho fered three years' bad marriage to Ernst & the 2002 results, the f weakening balance s insult to injury – obli ers to provide more their losses. Instea served a rare dose of Net cash was €465 the worst-case assum reached 3.1 per cent half, slightly above guidance and a whc ment from 0.3 per c half. Both represent turnround. The w improvement that provides Cap Gemi pockets to fund the consulting to capital sourcing. The margi shows it has finally